

**REMARKS**

This Application has been carefully reviewed in light of the Office Action mailed November 19, 2003. In order to advance prosecution of this case, Applicant amends Claims 1, 16, 17, 19, and 23. Applicant cancels Claim 18 without waiver or disclaimer. Applicant also adds new Claims 28-40, which are fully supported by the Application as originally filed. Applicant respectfully requests reconsideration and favorable action in this case.

**Allowable Subject Matter**

Applicant notes with appreciation the Examiner's indication that Claims 3-7, 10-13, 21, 22, 24, and 27 would be allowable if rewritten in independent form.

**Drawing Objections**

The Examiner rejects the drawing elements of Figures 5 and 7 because these drawing elements do not match the drawing elements in the specification. Applicant submits replacement drawings for the rejected figures, thereby addressing the Examiner's rejection.

Section 102 Rejections

The Examiner rejects Claims 16-20 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,175,871 issued to Schuster et al. ("Schuster"). As amended, Claim 16 recites:

A system for storing at least one frame of an input signal for an amount of time before transmitting the at least one frame, the system comprising:

a buffer for storing a frame of an input signal, the buffer having a depth which is adjustable and specifies an amount of time the frame is stored in the buffer before being played;

a buffer detector unit for determining whether at least a predefined amount of frames are stored in the buffer; and

a buffer depth adjuster for altering the depth of the buffer responsive to the buffer detector unit determining a predefined amount of frames are note stored in the buffer.

Schuster does not teach, expressly or inherently, every element of Claim 16. Schuster discloses "[a] method and apparatus for communicating a real time media input over a network." Abstract. Schuster does not, however, teach a buffer "having a depth which is adjustable and specifies an amount of time the frame is stored in the buffer before being played" as recited by amended Claim 16.

As a result, Schuster fails to teach, either inherently or expressly, every element of amended Claim 16. Claim 16 is thus allowable for at least this reason. Applicant respectfully requests reconsideration and allowance of Claim 16.

As amended, Claim 17 recites:

A method for increasing a depth of a multimedia buffer system, the method comprising the steps of:

receiving a frame of an input signal at an arrival-time, the frame having a timestamp indicating a playback-time;

determining whether the frame arrived late, the frame arriving late if the arrival-time is greater than the playback-time;

determining an amount of time the frame arrived late if the arrival-time is greater than the playback-time; and

altering the depth of the multimedia buffer system if the frame arrived late.

*Schuster* fails to teach, either expressly or inherently, every element of amended Claim 17. As amended, Claim 17 includes elements of original Claim 18, therefore the rejection of Claim 17 will be addressed with respect to original Claim 18. In rejecting original Claim 18, the Examiner stated only that:

*Schuster* discloses a method of increasing a depth of a multimedia buffer the method comprising the steps of: receiving a frame of an input signal (column 7, lines 24-23) at an arrival-time, the frame having a time stamp indicating a playback time (column 11, lines 49-55; playback time is inherently in the time stamp since time stamp is used to indicate the relative playout time of received packets at user display unit when a user views video programs). *Schuster* teaches determining whether the frame arrived late, the from arriving late if the arrival time is greater than the playback time (column 10, lines 22-32); altering the depth of the multimedia buffer system if the frame arrived late (column 10, lines 26-35; see Fig. 6).

Office Action, p. 3.

Applicants respectfully note that the Examiner failed to address "determining an amount of time the frame arrived late if the arrival-time is greater than the playback-time" in rejecting original Claim 18. Moreover, *Schuster* fails to teach "determining an amount of time the frame arrived late if the arrival-time is greater than the playback-time."

As a result, *Schuster* fails to teach, either expressly or inherently, every element of amended Claim 17. Claim 17 is

thus allowable. Applicant respectfully requests reconsideration and allowance of amended Claim 17 and its dependents.

Applicant also cancels Claims 18, thereby traversing the Examiner's rejection of Claim 18.

**Section 103 Rejections**

The Examiner rejects Claims 1 and 2 under 35 U.S.C. § 103(a) as being unpatentable over *Schuster*. As amended Claim 1 recites:

A system for storing at least one frame of an inputs signals for an amount of time before transmitting the at least one frame, the system comprising:

a buffer for storing a frame of an input signal, the buffer having a depth which is adjustable;

a clock for indicating an arrival-time of the frame received at the buffer, the frame having a timestamp denoting a playback-time;

a comparison module for comparing the arrival-time with the playback-time for determining whether the frame arrived on schedule, the comparison module operable to determine an amount of time between the arrival-time and the playback-time if the frame did not arrive on schedule; and

a buffer depth adjuster for altering the depth of the buffer responsive to the comparison module determining the frame did not arrive on schedule, wherein the depth of said buffer is altered based on the amount of time said frame did not arrive on schedule.

*Schuster* does not disclose, teach, or suggest every element of amended Claim 1. Applicant respectfully notes that, to establish a prima facie case of obviousness under 35 U.S.C. § 103, the Examiner must identify within the reference some suggestion or motivation to modify the reference. M.P.E.P. § 2143. Applicant respectfully asserts that the Examiner provides no such suggestion or motivation. With respect to the proposed combination, the Examiner states only that:

One of ordinary skill in the art would have been motivated to compare the received time corresponding to arrival time with the timestamp value as evidenced by *Schuster* (column 9, lines 30-31) since the timestamp is use [sic] to indicate the relative play out time. Therefore, it would have been

obvious to one of ordinary skill in the art at the time of the invention to use [sic] compare the received time with the timestamp value as evidenced by Schuster with the motivation being that it provides capability for the system to indicate the relative playback time of the received packet at the user display unit, thus enhancing system reliability and performance.

*Office Action*, p. 5.

These conclusory statements however identify no motivation or suggestion within the reference to modify the reference as required by M.P.E.P. § 2143 and amount to hindsight reconstruction of Claim 1. Thus, the proposed modification is improper.

Furthermore, even with this improper modification, *Schuster* fails to disclose, teach, or suggest every element of Claim 1. *Schuster* does not disclose "a comparison module operable to determine an amount of time between the arrival-time and the playback-time if the frame did not arrive on schedule."

As a result, *Schuster*, even if modified as the Examiner suggests, fails to disclose, teach, or suggest every element of amended Claim 1. Claim 1 is thus allowable. Applicant respectfully requests reconsideration and allowance of Claim 1 and its dependents.

The Examiner rejects Claims 8, 14, and 15 under 35 U.S.C. § 103(a) as being unpatentable over *Schuster* in view of U.S. Patent No. 6,452,950 issued to Ohlsson et al. ("*Ohlsson*"). Claims 8, 14, and 15 depend from Claim 1, which has been shown above to be allowable. Claims 8, 14, and 15 are thus allowable for at least these reasons. Applicant respectfully requests reconsideration and allowance of Claims 8, 14, and 15.

The Examiner rejects Claims 9, 23, 25-26 under 35 U.S.C. § 103(a) as being unpatentable over *Schuster* in view of U.S. Patent No. 6,282,196 issued to Lyons et al. ("*Lyons* "). As amended Claim 23 recites:

A method for decreasing a depth of a multimedia buffer system, the method comprising the steps of:

receiving a frame of an input signal at an arrival-time, the frame having a timestamp indicating a playback-time;

determining whether the frame arrived early, the frame arriving early if the arrival-time is less than the playback-time;

determining an amount of time the frame arrived early if the arrival-time is less than the playback-time; and

altering the depth of the multimedia buffer system if the frame arrived early.

*Schuster* fails to disclose, teach, or suggest "determining an amount of time the frame arrived early if the arrival-time is less than the playback-time" as recited by amended Claim 23. Additionally, combination with *Lyons* does not remedy this omission. *Lyons* discloses a system that applies a build-out delay to the packets associated with a talk-spurt. The build-out delay is based on the length of a previous silence interval. Col. 2, ll. 1-4. *Lyons* does not disclose "determining an amount of time the frame arrived early if the arrival-time is less than the playback-time[.]"

Therefore, *Schuster* and *Lyons* do not disclose, teach, or suggest every element of amended Claim 23. Claim 23 is thus allowable for at least these reasons. Applicant respectfully requests reconsideration and allowance of Claim 23 and its dependents.

Claim 9 depends from Claim 1, which has been shown above to be allowable. Claim 9 is thus allowable for at least this reason. Claims 25-26 depend from Claim 23, which has been shown above to be allowable. Claims 25-26 are thus allowable



for at least these reasons. Applicant respectfully requests reconsideration and allowance of Claims 9 and 25-26.

**New Claims**

Applicant adds Claims 28-40, which are fully supported by the Application as originally filed. Although of differing scope from Claim 1, Claim 28 includes elements that, for reasons substantially similar to those discussed above with respect to Claim 1, are not disclosed, taught, or suggested by the cited references. Claim 28 is thus allowable for at least these reasons. Applicant respectfully requests consideration and full allowance of Claim 28 and its dependents.

Although of differing scope from Claim 17, Claim 39 includes elements that, for reasons substantially similar to those discussed above with respect to Claim 17, are not disclosed, taught, or suggested by the cited references. Claim 39 is thus allowable for at least these reasons. Applicant respectfully requests consideration and full allowance of Claim 39.

Although of differing scope from Claim 23, Claim 40 includes elements that, for reasons substantially similar to those discussed above with respect to Claim 23, are not disclosed, taught, or suggested by the cited references. Claim 40 is thus allowable for at least these reasons. Applicant respectfully requests consideration and full allowance of Claim 40.

Conclusions

Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests full allowance of all pending Claims. If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicant stands ready to conduct such a conference at the convenience of the Examiner.

The Commissioner is hereby authorized to charge the \$474.00 fee for additional claims and any other fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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